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10/753,853	01/08/2004	Kellie Michelle Lecompte	AUS920030726US1	6045

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EXAMINER	
ASTORINO, MICHAEL C	
ART UNIT	PAPER NUMBER
3736	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/753,853

Applicant(s)

LECOMPTE ET AL.

Examiner

Michael C Astorino

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 8, 10-11, and 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Tavori US Patent Number US Patent Number 5,724,025 A.

Claim 1. A method for personal stress monitoring comprising:

- (a) receiving one or more physiologic indicators; (sensors 28-39)
- (b) comparing values of the one or more physiologic indicators to corresponding baseline values; (column 7, lines 33-56, upper limit, lower limit, and delta)
- (c) determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values (column 7, lines 44-56, upper limit, lower limit, and delta); and
- (d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded, (alarm signal 23).

Art Unit: 3736

Claim 2. The method of claim 1 wherein the at least one threshold condition comprises user profile data. (column 7, lines 44-56, upper limit, lower limit, and delta is considered as the profile data).

Claim 3. The method of claim 1 wherein the at least one threshold condition comprises a condition relative to a single physiologic indicator value or a condition relative to a composite of physiologic indicator values. (column 7, lines 44-56, upper limit, lower limit, and delta)

Claim 4. The method of claim 1 further wherein the one or more physiologic indicators are received via a wireless network device from one or more sensors for sensing the user's corresponding physiologic indicator. (communication means 13 and cable equivalent 25, column 5, lines 40-64)

Claim 8. A computer program product embodied in a computer readable medium for personal stress monitoring comprising programming instructions for:

- (a) receiving one or more physiologic indicators (sensors 28-39);
- (b) comparing values of the one or more physiologic indicators to corresponding baseline values (column 7, lines 33-56, upper limit, lower limit, and delta);
- (c) determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values (column 7, lines 44-56, upper limit, lower limit, and delta); and

Art Unit: 3736

(d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded. (alarm signal 23).

Claim 10. The computer program product of claim 8 wherein the at least one threshold condition comprises a condition relative to a single physiologic indicator value or a condition relative to a composite of physiologic indicator values. (column 7, lines 33-56, upper limit, lower limit, and delta).

Claim 11. The computer program product of claim 8 further wherein the one or more physiologic indicators are received via a wireless network device from one or more sensors for sensing the user's corresponding physiologic indicator. (communication means 13 and cable equivalent 25, column 5, lines 40-64)

Claim 15. A data processing system comprising:

- (a) circuitry operable for receiving one or more physiologic indicators (sensors 28-39);
- (b) circuitry operable for comparing values of the one or more physiologic indicators to corresponding baseline values (column 7, lines 33-56, upper limit, lower limit, and delta);
- (c) circuitry operable for determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values (column 7, lines 44-56, upper limit, lower limit, and delta); and

Art Unit: 3736

(d) circuitry operable for, if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded. (alarm signal 23).

Claim 16. The data processing system of claim 15 wherein the at least one threshold condition comprises user profile data. (column 7, lines 44-56, upper limit, lower limit, and delta is considered as the profile data).

Claim 17. The data processing system of claim 15 wherein the at least one threshold condition comprises a condition relative to a single physiologic indicator value or a condition relative to a composite of physiologic indicator values. (column 7, lines 44-56, upper limit, lower limit, and delta).

Claim 18. The data processing system of claim 15 further wherein the one or more physiologic indicators are received via a wireless network device from one or more sensors for sensing the user's corresponding physiologic indicator. (communication means 13 and cable equivalent 25, column 5, lines 40-64).

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an

Art Unit: 3736

international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 5, 8-9, 12, 14-16, and 19-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. US Patent Number 6,569,094 B2.

Claim 1. A method for personal stress monitoring comprising:

(a) receiving one or more physiologic indicators (Physiological sensors 1026, 1027, 1028, 1029, 10211, 10212 in figure 1)

(b) comparing values of the one or more physiologic indicators to corresponding baseline values (S818 in figure 8);

(c) determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values (S818 in figure 8); and

(d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis").

Claim 5. The method of claim 1 wherein a first set of baseline values are generated by training on a set of physiologic indicator values for the user. (S819, column 10 lines 1-53)

Claim 8. A computer program product embodied in a computer readable medium for personal stress monitoring comprising programming instructions for:

Art Unit: 3736

(a) receiving one or more physiologic indicators (Physiological sensors 1026, 1027, 1028, 1029, 10211, 10212 in figure 1);

(b) comparing values of the one or more physiologic indicators to corresponding baseline values (S818 in figure 8);

(c) determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values (S818 in figure 8); and

(d) if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis").

Claim 9. The computer program product of claim 8 further comprising programming instructions for determining if a remedial action is manually initiated; and retrieving a user selection for said remedial action. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines10-38).

Claim 12. The computer program product of claim 8 wherein a first set of baseline values are generated by training on a set of physiologic indicator values for the user. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines10-38).

Art Unit: 3736

Claim 14. The computer program product of claim 8 wherein each threshold condition is associated with a remedial action, and wherein the programming instructions further include instructions for selectably overriding a remedial action. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines10-38).

Claim 15. A data processing system comprising:

(a) circuitry operable for receiving one or more physiologic indicators (Physiological sensors 1026, 1027, 1028, 1029, 10211, 10212 in figure 1);

(b) circuitry operable for comparing values of the one or more physiologic indicators to corresponding baseline values (S818 in figure 8);

(c) circuitry operable for determining if, in response to step (b) if the one or more physiologic indicators equals or exceeds at least one preselected threshold condition relative to baseline values (S818 in figure 8); and

(d) circuitry operable for, if at least one threshold condition is equaled or exceeded in step (c), emitting a remedial action corresponding to a highest level threshold condition equaled or exceeded. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines10-38).

Claim 16. The data processing system of claim 15 wherein the at least one threshold condition comprises user profile data. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines10-38).

Art Unit: 3736

Claim 19. The data processing system of claim 15 wherein a first set of baseline values are generated by training on a set of physiologic indicator values for the user. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines10-38).

Claim 20. The data processing system of claim 16 wherein user profile data further comprises one or more remedial actions associated with a corresponding one of the one or more threshold conditions, the data processing system further including circuitry operable for selectably overriding a remedial action in the user profile. (S812, S820," In case of an abnormal result, the decision result is written in the corpus (S819), and the advice is presented to the user by speech synthesis", and column 11, lines10-38).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 6-7, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. US Patent Number 6,569,094 B2 as applied to claims 1, 5, 8 and 12 above, and further in view of Lang et al US Patent Number 6,358,208 B1.

Art Unit: 3736

In regards to claims 6-7, and 13. Suzuki et al. does not disclose baseline values comprise a set of nominal values for a population based on one or more factors including height, weight and gender. However Lang et al. a reference that analogously uses thresholds, baselines and alarms to inform users/patient of an impending unwelcome physiological problem uses baseline values comprising a set of nominal values for a population based on one or more factors including height, weight and gender (Threshold values can be defined by comparing measured ILT at a given time point with the patient's baseline ILT, e.g. ILT measured at the time of hospital admission or at the time of a previous outpatient visit. Threshold values can also be defined by comparing measured ILT at a given time point with the patient's baseline ILT and/or normal reference values of ILT (e.g. ILT values in an age, sex, race, or weight-matched healthy reference population). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the patient baseline of Suzuki in view of the referenced weight population baseline of Lang et al., since Lang et al. states the alternative as a known choice in the medical/physiological monitoring art (column 50, lines 1-14).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael C Astorino whose telephone number is 703-306-9067. The examiner can normally be reached on Monday-Friday, 10:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (703) 308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3736

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Michael Astorino', with a long horizontal flourish extending to the right.

Michael Astorino
September 30, 2004